

R E M A R K S

Claims 1 to 16 and 28 to 33 as set forth in Appendix I of this paper are now pending in this case. 17 to 27 and Claims 34 to 40 have been canceled as indicated.

The Examiner has required election of, and restriction of the application to, one of the following groups of Claims

- I. Claims 1 to 11 and 31 to 33 drawn to a process;
- II. Claims 12 to 16, 20 to 30 and 40 drawn to a product or composition; and
- III. Claims 17 to 19 and 34 to 39 drawn to methods of use, contending that the respective groups relate to distinct and independent inventions.

Applicants herewith elect Group I. Traversal of the Examiner's requirement to restrict the application is, however, respectfully solicited to the extent that the subject matter of Claims 12 to 16 and 28 to 30 is concerned.

Claims 12 to 16 relate to the product which is obtained by the process of Claim 1, and Claims 28 to 30 relate to a composition comprising the product defined in Claims 12 to 16. The Examiner asserts that the product as claimed can be made by another materially different process without, however, demonstrating that fact or exemplifying such a process. As explained in MPEP §806.05(f) restriction between claims drawn to a process and to product-by-process claims is proper only if the examiner can demonstrate that the product as claimed can be made by another and materially different process. Since the Examiner has not met the burden, the requirement to restrict is unsubstantiated, and traversal is deemed appropriate. Favorable action is respectfully solicited.

REQUEST FOR EXTENSION OF TIME:

It is respectfully requested that a one month extension of time be granted in this case. A check for the \$110.00 fee is attached.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit

Serial No. 09/988,109

AUWETER et al.

PF 0000051964

Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,

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Encl.: THE LISTING OF CLAIMS (Appendix I)

HBK/BAS